

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: VALSARTAN, LOSARTAN, AND
IRBESARTAN PRODUCTS LIABILITY
LITIGATION

No. 1:19-md-2875-RBK
Hon. Robert Kugler

**PLAINTIFFS' RESPONSE TO RETAIL PHARMACY DEFENDANTS' OBJECTION
IN PART TO SPECIAL MASTER REPORT AND ORDER NO. 46**

Plaintiffs, by and through the Plaintiffs' Executive Committee, respectfully file this response to Retail Pharmacy Defendants' Objections in Part to the Special Master Report and Order No. 46 (ECF 1692).

Retail Pharmacy Defendants truly "object" to only one aspect of the Special Master's Report and Order No. 46: the Special Master's granting Plaintiffs leave to file amended Economic Loss and Medical Monitoring Master Complaints to assert "claims under the laws of states where named Plaintiffs do not reside and have not been injured, but will need to establish the absence of a conflict between the laws where they live and the laws of states that do not have named class representatives." Report (ECF 1614) at 11-12. Retail Pharmacy Defendants' objection simply incorporates Manufacturer Defendants' objection (ECF 1690) on this same point. Therefore, for efficiency's sake, Plaintiffs adopt here in full its separate response to Manufacturer Defendants' objection on that same point.

The balance of Retail Pharmacy Defendant's "objection" simply asks this Court to adopt or confirm the specific state claims that should or should not be alleged against them in the now-filed amended master complaints. As Retail Pharmacy Defendants do not object or seek any relief

in this regard, there is no need for Plaintiffs to respond here.

Plaintiffs do note that the newest amended complaints filed on November 1, 2021 reflect the Special Master's Report and Order No. 46, insofar as the complaints identify, e.g., specific states' laws under which Plaintiffs do or do not assert a particular theory. For instance, Retail Pharmacy Defendants state the Special Master disallowed leave to amend any complaint to assert negligence or fraud claims against them. *See* ECF 1692-1 at 5-7. The Master Complaints took this into account – e.g., none of the Master Complaints allege negligence or common-law fraud claims against Retail Pharmacy Defendants. Retail Pharmacy Defendants also argue the operative Master Complaints should only plead claims under states' consumer protection statutes that do *not* sound in fraud, because statutes' claims that only sound in fraud were disallowed. *See id.* at 6. The Master Complaints do this, and delineate only a subset of states' consumer protection statutes that do not require a showing of fraud.

Simply put, in filing their Master Complaints on November 1, 2021, Plaintiffs intended to fully abide by the Special Master's Report and Order No. 46. If Retail Pharmacy Defendants believe there is any discrepancy between the Special Master's Report and Order and the Master Complaints, any such discrepancy was inadvertent. Plaintiffs are available to meet and confer with Retail Pharmacy Defendants (or any Defendant, for that matter) and, if appropriate, jointly petition the Court to correct an inadvertent discrepancy in any Master Complaint.

Dated: November 24, 2021

Respectfully submitted,

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MDL Plaintiffs' Co-Lead Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November, 2021, I caused a true and correct copy of the foregoing to be filed and served upon all counsel of record by operation of the Court's CM/ECF system.

/s/ David J. Stanoch

David J. Stanoch